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8 UNITED STATES BANKRUPTCY COURT  
9 WESTERN DISTRICT OF WASHINGTON

10 In re

11 IDEAL PROPERTY INVESTMENTS LLC.

12  
13 Debtor.

CASE NO. 24-01421-11

DEBTOR'S SUPPLEMENTAL FILING  
IN SUPPORT OF SECOND INTERIM  
ORDER AUTHORIZING USE OF CASH  
COLLATERAL AND GRANTING  
ADEQUATE PROTECTION

14  
15 Ideal Property Investments, LLC (the "Debtor"), debtor-in-possession in the above-  
16 captioned chapter 11 bankruptcy case, hereby provides this supplemental filing in support of its  
17 request for a second interim order authorizing its use of cash collateral ("Second Interim Cash  
18 Collateral Order"). In the Second Interim Cash Collateral Order, Debtor seeks the following relief:  
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- 20 1. Continuing to authorize, on an interim basis, Debtor's use of Cash Collateral (defined  
21 below) pursuant to an approved Budget (defined below);  
22  
23 2. Further granting, on an interim basis, adequate protection of the security interests of  
24 parties with security interests in the Debtor's assets;  
25  
26 3. Setting a third interim hearing ("Third Hearing") to consider extending the relief  
requested, as may be modified by stipulation or further motion, again on an interim basis.

SUPPLEMENTAL FILING IN SUPPORT OF SECOND INTERIM  
ORDER AUTHORIZING USE OF CASH COLLATERAL AND  
GRANTING ADEQUATE PROTECTION - 1

**DBS | LAW**

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1 In support of this supplemental filing, the Debtor incorporates the Declaration of Eric  
2 Camm in Support of First Day Motions (ECF No. 13) (the “First Day Decl.”) and the concurrently  
3 filed Declaration of Joseph Fanelli (“Fanelli Decl.”). A proposed form of the Second Interim Cash  
4 Collateral Order is submitted herewith. Debtor incorporates the factual background and legal  
5 analysis from its Emergency Motion for Order to Use Cash Collateral (“Motion”). ECF No. 11.

## 6 INTRODUCTION

7 Debtor remains a debtor in possession in this proceeding. To date, no official committee of  
8 unsecured creditors has been formed. The Court has approved the interim use of Cash Collateral<sup>1</sup>  
9 (ECF No. 55) (the “First Interim Order”), which set a further hearing on the continued use of Cash  
10 Collateral for October 10, 2024. The Debtor reserves the right to file further supplements in advance  
11 of the October 10<sup>th</sup> hearing to the extent there are any material updates.

### 12 1. Update Since Last Hearing

13 The Debtor and its professionals have continued efforts to stabilize the estate. As further  
14 outlined below, those efforts have primarily consisted of obtaining insurance over all properties,  
15 collecting rent from tenants, readying Real Properties for sale, identifying creditors, and working  
16 on a path forward to maximize the value to the estate and its creditors. A §341 hearing was held on  
17 September 27, 2024, which has been continued to October 25, 2024.

18 In addition, the management of the Debtor has been vested, pending Court approval, in a  
19 chief restructuring officer: J. Fanelli Properties, LLC (“CRO” or “Fanelli”). Fanelli has assumed  
20 this role due to concerns, including those of the United States Trustee’s office, over the continued  
21 management of the Debtor’s affairs by its manager, Eric Camm, when Mr. Camm is a principal at  
22 Turning Point, which continues as the custodian of the Debtor and the state-court appointed  
23 receiver over the Debtor’s subsidiaries.

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<sup>1</sup> All capitalized terms not defined herein shall have the definition ascribed in the Motion.

1 Important to the upcoming hearing, rent collection has been sporadic and challenging. As  
2 an initial matter, the Debtor still lacks clarity on what Real Properties are occupied by third-party  
3 tenants as opposed to tenants comprising Debtor's affiliated entities, Creative Technologies, LLC;  
4 Refreshing USA, LLC; and Water Station Management, LLC (collectively referred to as  
5 "Creative"), which remain subject to involuntary bankruptcy proceedings in the Southern District  
6 of Texas. Further, certain secured creditors executed on assignments of rents, thereby directing  
7 tenants to pay the secured creditors directly. The Debtor's team is working cooperatively with the  
8 respective secured parties to reverse those directives. Finally, certain real property initially  
9 assumed to be part of the bankruptcy estate has been determined to be titled in Debtor's  
10 subsidiaries, rendering those properties and their rent not property of the estate pursuant to 11  
11 U.S.C. §541. The Debtor intends to have a motion on file in advance of the second interim hearing  
12 on use of cash collateral to address the role of the subsidiaries in the bankruptcy case. As a result,  
13 the Debtor submits an updated rent roll from what was presented at the first Cash Collateral  
14 hearing, attached as Exhibit A to the Fanelli Decl., which excludes rent derived from subsidiary  
15 owned properties.

16 Relatedly, Debtor has discovered that with respect to one of its proposed adequate  
17 protection payments approved in the First Interim Order would have gone to a secured creditor of  
18 one of its subsidiaries, Avatar REIT I, LLC. Upon discovering this fact, no adequate protection  
19 payment was made to this creditor. Debtor did make the following adequate protection payments  
20 for the month of September: First Federal Bank: \$14,842.19; Cadence Bank: \$5,152.01; Socotra  
21 REIT I LLC: \$11,599.56.

22 The Debtor and its professionals have been working diligently to gain better information  
23 about the value of the Real Property and the amount of secured liens against each. An updated  
24 schedule, just showing the Real Property held by the estate (and not Debtor's subsidiaries) is  
25 attached as Exhibit B to the Fanelli Decl. Debtor has likewise updated its schedules in this  
26

1 proceeding, although it recognizes that a further update is likely needed once more information is  
2 available to it.

3 The Debtor has identified one piece of Real Estate, 530 Oppen Street, Escondido, CA  
4 (the “Escondido Property”) that is ready for sale and has filed a motion to approve such sale (ECF  
5 No. 79). This sale, if approved, will paydown Socotra REIT I, LLC, which is cross-collateralized  
6 on another of Debtor’s Real Properties. It will also provide the Debtor approximately \$420,000 in  
7 sale proceeds, which Debtor seeks court authority to use at the upcoming hearing. Attached as  
8 Exhibit C to the Fanelli Decl. is the updated cash collateral budget (“Second Interim Cash  
9 Collateral Budget”), which forecasts the Escondido Property net proceeds. Related to the  
10 Escondido Property sale, as highlighted in the motion to approve the sale, the Debtor is aware of  
11 certain personal property left behind by a former tenant and affiliated entity, Water Station  
12 Management, LLC (“WSM”), after it terminated its tenancy in September of 2023. Due the  
13 pending bankruptcy of that entity, the Debtor needs to preserve those assets for WSM and cannot  
14 just abandon or sell the items. To do that, Debtor may need to hire a moving company and rent  
15 storage space, either from the buyer of the Escondido Property or a third party. It has included the  
16 maximum amount that it would anticipate for such storage to cost in the Second Interim Cash  
17 Collateral Budget. Incurring such expense brings value to Debtor’s estate, as the Escondido sale  
18 could not close without dealing with the WSM personal property.

19 The Debtor continues to work with its real estate brokers to market the remaining Real  
20 Properties for sale, either individually or through a portfolio offer – identifying those ready for a  
21 more immediate sale and those that should be sold under a confirmed Plan of Reorganization. With  
22 respect to the three residential real estate properties (Camano, WA and two in San Antonio, TX),  
23 the Debtor intends to hire residential real estate brokers in the respective states, subject to court  
24 approval, to begin marketing those Real Properties.

25 Another important issue the Debtor is working on is binding property and casualty  
26 insurance covering the Real Properties. To that end, the Debtor has been informed it can anticipate

1 receiving quotes early next week and that the premium cost is estimated to be around \$550,000,  
2 and the Debtor will likely be able to finance between 50% to 75% of the premium. The Debtor will  
3 bring motions to approve any financing arrangement as required under the Bankruptcy Code.

4 Finally, Debtor forecasts to pay certain professional fees of Fanelli Properties and DBS  
5 Law in the Second Interim Cash Collateral Budget, up to \$75,000, to be split between the  
6 respective professionals, pro-rata based upon their September time, subject to entry of orders  
7 approving each professional's employment and approving payment of fees.

#### 8 ANALYSIS

9 The purpose of adequate protection under Bankruptcy Code § 363 is to compensate a  
10 secured lender solely for the diminution in value of its collateral. *Qmect, Inc. v. Burlingame*  
11 *Capital Partners II, L.P.*, 373 B.R. 682, 689-90 (N.D. Cal. 2007) (citing *In re Timbers of Inwood*  
12 *Forest Assocs., Ltd.*, 484 U.S. 365, 377, 108 S.Ct. 626 (1988)). Adequate protection payments are  
13 not to be used to compensate the creditor for lost interest or to provide lost opportunity costs. *In re*  
14 *Weinstein*, 227 B.R. 284, 296 (9th Cir. BAP 1998) (citing *In re Timbers*). Adequate protection is  
15 not meant to be a guarantee that a creditor will be paid in full. Instead, the Court must determine  
16 whether the creditor's interests are protected as nearly as possible against the possible risks to that  
17 interest. *In re Ernst Home Ctr.*, 209 B.R. 955, 966 (Bankr. W.D. Wash. 1997); *In re McCombs*  
18 *Properties VI, Ltd.*, 88 B.R. 261, 267 (Bankr. C.D.Cal. 1988).

19 The Secured Lenders will be protected by the granting of replacement liens on their  
20 respective collateral and making certain adequate protection payment ("Adequate Protection  
21 Payments"). The Adequate Protection Payments are calculated based upon Debtor's analysis of how  
22 much rent it is set to receive off a given Real Property and how much the respective Secured Lender  
23 is owed on such Real Property. The chart attached as Exhibit D to the Fanelli Decl. outlines the  
24 calculations of the proposed Adequate Protection Payments and the specific amounts are likewise  
25 included in the Second Interim Cash Collateral Budget. Further, as indicated above, the first-position  
26 Secured Lenders are also broadly protected with equity cushions on their individual parcels of

1 prepetition collateral. With respect to First Fed's second position security interests—a blanket lien  
2 across substantially all of the Debtor's Real Property (as well as certain subsidiaries)—while  
3 individual parcels do not each have adequate equity to protect First Fed, taken together the entire  
4 Real Property portfolio (including subsidiaries) does include sufficient equity to protect the second-  
5 position lien. Adding the Debtor's commitment to maintaining (and in some cases, obtaining)  
6 insurance, the grant of a super-priority administrative expense claim for any diminution in the value  
7 of the Secured Lenders' interests, and the Adequate Protection Payments, the requirements of 11  
8 U.S.C. § 363 are met.

### 9 CONCLUSION

10 The use of Cash Collateral is critical to the Debtor's ability to meet its obligations and move  
11 this case forward. The Debtor's proposed protection of the Secured Lenders' liens is adequate at this  
12 juncture to protect against any diminution in value of their collateral. The Debtor asks the Court to  
13 approve the Debtor's use of cash collateral in accordance with the proposed Second Interim Cash  
14 Collateral Budget.  
15

16 DATED this 4<sup>th</sup> day October 2024.

17 DBS LAW

18  
19 By /s/ Daniel Bugbee  
20 Daniel J. Bugbee, WSBA # 42412  
21 Laurie Thornton, WSBA # 35030  
22 Dominique Scalia, WSBA # 47313  
23 *Proposed Attorneys for Debtor*  
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Dated this 4<sup>th</sup> day of October 2024 at Seattle, Washington.

By /s/ Daniel J. Bugbee  
Daniel J. Bugbee, WSBA # 42412